

Title	<b>Rule on Notice to a Guardian or Conservator of a Person Entitled to Notice in a Probate Proceeding.</b> (amend Cal. Rules of Court, rule 7.51)
Summary	Rule 7.51(c) of the California Rules of Court, adopted effective January 1, 2003, would be amended to become fully consistent with Probate Code section 1210.
Source	Probate and Mental Health Advisory Committee
Staff	Douglas C. Miller, 415–865–7535, douglas.miller@jud.ca.gov
Discussion	<p>Rule 7.51, adopted effective January 1, 2003, is a comprehensive rule that prescribes the manner of service of notices of hearing under Probate Code section 1220 in a variety of circumstances in decedent’s estates, guardianships, and conservatorships. Subdivision (c) of rule 7.51 provides for service of notices on a person who is entitled to notice, but for whom a guardian or conservator has been appointed. In the current rule, the subdivision provides that the fiduciary must be served with the notice, and that the person entitled to notice—the ward or conservatee—must also be served unless the court has dispensed with such service.</p> <p>Current rule 7.51(c) is too broad when applied to a decedent’s estate proceeding. Probate Code section 1210 provides:</p> <p>“If an interested person has a guardian or conservator <i>of the estate</i> who <i>resides in this state, personal service on the guardian or conservator of any process, notice, or court order concerning a decedent’s estate</i> is equivalent to service on the ward or conservatee, and it is the duty of the guardian or conservator to attend to the interests of the ward or conservatee in the matter. The guardian or conservator may appear for the ward or conservatee and waive any process, notice, or order to show cause that a person not under legal disability might waive.” (Italics added.)</p> <p>Any person entitled to receive a notice of hearing in a decedent’s estate is an “interested person” within the meaning of section 1210.</p> <p>Rule 7.51(c) would be amended to conform exactly to the requirements of section 1210. If <i>personal service of a notice of hearing in a decedent’s estate proceeding</i> is made on a <i>California-resident</i> guardian or conservator <i>of the estate</i> of a person entitled to notice, separate service of the notice on that person would not also be</p>

required under the revised rule.

In all other situations, including cases where service on the fiduciary is made by mail, where the fiduciary is a guardian or conservator of the person only, where the fiduciary is not a California resident, and where the proceeding is not a decedent's estate, service of a copy of the notice of hearing on the ward or conservatee in addition to service on the fiduciary would still be required under the revised rule unless the court dispenses with that service.

A copy of the revised rule 7.51(c) is attached at page 3.

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Attachment

## Rule Proposal

Rule 7.51 of title 7 of the California Rules of Court would be amended, effective January 1, 2004, to read:

### Rule 7.51. Service of notice of hearing

(a)–(b) \* \* \*

(c) [Notice to guardian or conservator]

(1) When a guardian or conservator has been appointed for a person entitled to notice, the notice must be sent to the guardian or conservator ~~and,~~

(2) A copy of the notice must also be sent to the ward or conservatee unless:

(A) ~~¶The court has dispensed~~ dispenses with such notice, ~~to the ward or conservatee; or~~

(B) Under Probate Code section 1210 in a decedent's estate proceeding, the notice is personally served on a California-resident guardian or conservator of the estate of the ward or conservatee.

(d)–(e). \* \* \*